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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

ANGEL FRALEY; PAUL WANG; SUSAN
MAINZER; JAMES H. DUVAL, a minor, by
and through JAMES DUVAL, as Guardian ad
Litem; and WILLIAM TAIT, a minor, by and
through RUSSELL TAIT, as guardian ad
Litem; individually and on behalf of all others
similarly situated,

Plaintiffs,

v.

FACEBOOK, INC, a corporation; and DOES
1-100,

Defendants.

Case No. 11-CV-01726 LHK (PSG)

**DECLARATION OF MATTHEW D. BROWN
IN SUPPORT OF FACEBOOK, INC.'S
MOTION FOR PROTECTIVE ORDER**

DATE: July 26, 2011
TIME: 10:00 a.m.
COURTROOM: 5
JUDGE: Hon. Paul S. Grewal
TRIAL DATE: None Set

I, Matthew D. Brown, hereby declare as follows:

1. I am an attorney licensed to practice law in the State of California, and I am admitted to practice before this Court. I am a partner with the law firm of Cooley LLP, attorneys for Defendant Facebook, Inc. ("Facebook"). I make this declaration in support of Facebook's

1 Motion for Protective Order in this action. I have personal knowledge of the facts stated in this
2 declaration, and if called upon to testify, could and would competently testify thereto.

3 2. Plaintiffs filed the above-entitled action on March 11, 2011 in the Superior Court
4 of California, County of Santa Clara, and filed their First Amended Complaint (“FAC”) on March
5 18, 2011. Facebook removed the above-entitled action to the United States District Court for the
6 Northern District of California on April 8, 2011.

7 3. On April 27, 2011, the Honorable Lucy H. Koh entered an order setting the Initial
8 CMC for July 29, 2011. Attached hereto as **Exhibit A** is a true and correct copy of Judge Koh’s
9 April 27, 2011 Order Setting Case Management Conference. On May 19, 2011, Judge Koh
10 subsequently advanced the Initial CMC to July 28, 2011, which coincided with the hearing on
11 Facebook’s Motion to Dismiss Plaintiffs’ FAC.¹ Attached hereto as **Exhibit B** is a true and
12 correct copy of the May 19, 2011 Clerk’s Notice Setting Initial Case Management Conference to
13 Follow Motion Hearing.

14 4. Counsel for the Parties conducted the Rule 26(f) conference on May 18, 2011.
15 During the conference, my co-counsel and I stated our position that discovery should be stayed
16 until Facebook’s motion to dismiss was decided, and that, if and when discovery commenced, it
17 should be phased so that discovery would initially focus on issues relevant to class certification.
18 We proposed that the timing and sequencing of discovery should be raised with Judge Koh at the
19 Initial CMC. Plaintiffs informed us, however, that they would be hand-serving discovery
20 requests on the very day of the conference. Before the telephonic Rule 26(f) conference was
21 concluded, copies of Plaintiffs’ discovery requests began to arrive in my email inbox.

22 5. Plaintiffs’ May 18, 2011 discovery requests included the following: (1) five sets of
23 Requests for Admission (“RFAs”) containing a total of 53 requests; (2) five sets of Requests for
24 Production of Documents (“RFPs”) containing a total of 63 requests; (3) one set of Interrogatories
25 containing 15 questions; and (4) five notices of Rule 30(b)(6) “person most knowledgeable”
26 depositions (collectively “Plaintiffs’ Discovery Requests”). Attached hereto as **Exhibits C-F**,

27 ¹ Facebook withdrew its motion after Plaintiffs filed their Second Amended Complaint, but
28 Facebook requested that the Initial CMC remain scheduled for July 28, 2011.

1 respectively, are true and correct copies of Plaintiffs' May 18, 2011 RFAs, RFPs, Interrogatories,
2 and notices of depositions. Plaintiffs unilaterally picked eight sequential business days for these
3 depositions, all of which were noticed for dates before the Initial CMC is scheduled to occur. In
4 total, Plaintiffs' Discovery Requests seek to require Facebook to answer 131 written discovery
5 requests and to provide witnesses prepared to testify to the company's collective knowledge on
6 50 different topics.

7 6. Plaintiffs also served their Initial Disclosures on May 18, 2011. Attached hereto as
8 **Exhibit G** is a true and correct copy of Plaintiffs' Rule 26 Initial Disclosures. Included in these
9 Initial Disclosures are Plaintiffs' damages calculations.

10 7. On May 18, 2011, Facebook filed its Motion to Dismiss Plaintiffs' FAC.
11 Facebook moved to dismiss Plaintiffs' FAC on several grounds, including: Plaintiffs failed to
12 allege injury in fact and lacked standing; Plaintiffs' claims were barred by the Communications
13 Decency Act, 47 U.S.C. § 230; and, for multiple additional reasons, Plaintiffs failed to state any
14 claim upon which relief could be granted. Attached hereto as **Exhibit H** is a true and correct
15 copy of Facebook's May 18, 2011 Motion to Dismiss Plaintiffs' First Amended Complaint.

16 8. On June 6, 2011, Plaintiffs filed a Second Amended Complaint ("SAC").
17 Although Plaintiffs did not move for leave of court or seek Facebook's written consent before
18 filing the SAC, Facebook subsequently consented to the filing of the SAC and withdrew its
19 pending motion to dismiss. Plaintiffs and Facebook stipulated to a deadline of July 1, 2011 for
20 Facebook to move to dismiss or otherwise respond to the SAC.

21 9. As required by Federal Rule of Civil Procedure 26(c)(1), Facebook certifies that
22 the Parties have conferred and attempted to resolve this dispute prior to Facebook filing the
23 accompanying Motion for Protective Order.

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1 I declare under penalty of perjury that the foregoing is true and correct. Executed on June
2 21, 2011, at San Francisco, California.

3 /s/ Matthew D. Brown

4 Matthew D. Brown